



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Peter K. Skiff
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

COPY MAILED

JAN 31 2003

OFFICE OF PETITIONS

Applicant: Nichols et al
Appl. No.: 10/078,536
Filing Date: February 21, 2002
Title: CIGARETTE HAVING REDUCED SIDESTREAM SMOKE
Attorney Docket No.: 021238-513
Pub. No.: US 2002/0174875 A1
Pub. Date: November 28, 2001

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was on November 28, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several misspelling that may affect the public's ability to appreciate the technical disclosure of the patent application publication or affect the scope of the provisional rights.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies several minor typographical errors such as "that" for "than", "open end" for "open distal end", "on" for "one" and "base en" for "base end", which are not material mistakes because the technical disclosure and the claims are understandable.

The typographical errors identified by applicant are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The misspelling of "that" for "than" in claim 36, "open end" for "open distal end" in claim 61, "on" for "one" in claim 62 and "base en" for "base end" in claim 63, are minor typographical errors which are clearly understandable from reading each claim, as the terms are not read in a vacuum. The extra "1." in claim 63 is not a PTO error as the language is part of the original specification as filed.

The applicant is advised that a "request for republication of an application previously published"

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

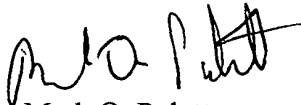
Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1700 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy